

UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN

LEONARD HOLMES,

Plaintiff,

v.

Civil Action: 21- -CV
Honorable:

TIMOTHY EDWARD HOFF and
UNITED STATES OF AMERICA
FEDERAL BUREAU OF INVESTIGATION,

Defendants.

MICHAEL L. BATTERSBY (P29012)
THE SAM BERNSTEIN LAW FIRM, LLC
Attorneys for Plaintiff
31731 Northwestern Hwy. # 333
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COMPLAINT AND JURY DEMAND

NOW COMES Plaintiff LEONARD HOLMES by and through his attorneys, THE SAM BERNSTEIN LAW FIRM, LLC, by MICHAEL L. BATTERSBY, and for his cause of action against Defendants respectfully shows unto this Honorable Court as follows:

JURISDICTIONAL ALLEGATIONS

1. That Plaintiff is a resident of the City of Detroit, County of Wayne, State of Michigan.

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2. That Defendant Timothy Edward Hoff (hereinafter referred to as “Hoff”) is an employee of the Federal Bureau of Investigations whose work address is 477 Michigan Avenue, Detroit, MI 48226.

3. That Defendant UNITED STATES OF AMERICA FEDERAL BUREAU OF INVESTIGATIONS is a governmental entity (hereinafter referred to as “FBI”).

4. That all the acts, transactions and occurrences arose in the City of Detroit, County of Wayne, State of Michigan.

5. That the amount in controversy in this litigation exceeds the sum of Seventy Five Thousand (\$75,000.00) Dollars exclusive of costs, interest and attorney fees.

6. Therefore, jurisdiction is properly vested with this Court pursuant to 28 U.S.C. § 1332(a)(2).

COUNT I - NEGLIGENCE

7. That on or about the 18th day of November, 2019, at or about the hour of 3:50 pm, Plaintiff, Leonard Holmes was the operator of a 2003 Dodge Ram Truck motor vehicle bearing Michigan license plate number 6MKZ63, which automobile was being driven in a careful and prudent manner in a northeasterly direction along and upon Harper Avenue, at or near its intersection with Newport Street in the City of Detroit, County of Wayne, State of Michigan, and when Plaintiff was stopping for a vehicle in front of him making a u-turn Defendant did not stop in an assured clear distance and struck Plaintiff’s vehicle.

8. That at the aforementioned place and time, Defendant FBI, was the owner and Defendant Hoff was the operator of a 2019 Chevrolet Impala motor vehicle bearing Michigan license plate number DZA2738, which motor vehicle said Defendant was driving in a careless, reckless and grossly negligent manner in a northeasterly direction along and upon Harper

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Avenue, at or near its intersection with Newport Street in the City of Detroit, County of Wayne, State of Michigan, when said Defendant did strike the vehicle in which Plaintiff was driving, causing the collision and causing serious and permanent injuries to your Plaintiff as hereinafter alleged.

9. That it then and there became and was the duty of Defendant Hoff to drive said motor vehicle with due care and caution in accordance with the statutes of the State of Michigan and the rules of the common law applicable to the operation of motor vehicles, but that notwithstanding said duties, this Defendant was negligent and did breach and violate the same in one or more of the following particulars:

- a. Driving said motor vehicle on the highway at a speed greater than would permit her to bring it to a stop within the assured clear distance ahead, contrary to the provisions of MCL 257.627;
- b. Driving at an excessive and unlawful speed;
- c. Failing to drive said motor vehicle on the highway at a careful and prudent speed, not greater than was reasonable and proper, having due regard to the traffic, surface and width of the highway and other conditions then and there existing as required by MCL 257.627;
- d. Failing to keep a proper or any lookout for traffic when Defendant knew or should have known that such failure would endanger the life and limb of other persons along and upon said highway;
- e. Driving a vehicle on a highway recklessly, with gross negligence and with willful or wanton disregard for the safety of others in violation of MCL 257.626 et. seq.
- f. Failing to give audible warning of the approach or presence of said motor vehicle when reasonably necessary to insure its safe operation as required by MCL 257.706;
- g. Failing to have said automobile equipped with brakes adequate to control its movement and stop and hold it as

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required by MCL 257.705 or in the alternative, failing to use said equipment;

- h. In failing to exercise reasonable and ordinary care and failure to keep a sharp lookout so as to avoid striking the rear end of Plaintiffs' vehicle as required by MCLA 257.402;
- i. Following another vehicle more closely than is reasonable and prudent having due regard for the speed of the vehicles and traffic upon and the condition of the highway in violation of MCLA 257.643;
- j. In failing to keep said vehicle under control at all times relevant to this matter;
- k. In otherwise negligently failing to exert that degree of care, caution, diligence and prudence as would be demonstrated by a reasonably prudent person under the same or similar circumstances and in otherwise causing the injuries and damages to your Plaintiff as hereinafter alleged; and
- l. In other manners as yet unknown to Plaintiff but which will become known during the course of discovery.

10. That Defendant FBI is vicariously liable for the negligent acts and/or omissions of Defendant Hoff by virtue of the terms of the applicable Owners Liability Statute MCLA Section 691.1405.

11. That Defendant FBI is vicariously liable for the negligent acts and/or omissions of their employee the Defendant Hoff who was acting within the scope and course of his employment and by virtue of the terms of the doctrine of *respondeat superior*.

12. That as a direct and proximate result of the negligent acts and/or omissions on the part of Defendants your Plaintiff was caused and will be caused in the future to suffer with severe, grievous and permanent personal injuries, disability, damages, serious impairment of

bodily functions and permanent, serious disfigurement, the full extent and character of which are currently unknown but, which will include but, are not necessarily limited to the following:

- a. Herniated disc(s)/Bulging disc(s) – neck
- b. Herniated disc(s)/Bulging disc(s) – back; requiring Right T10, T11, T12, L1 medial branch nerve blocks under fluoroscopic guidance (multiple)
- c. Closed head injury and all sequelae thereof;
- d. Right knee injury requiring surgery;
- e. Traumatic spondylopathy;
- f. Injuries to the head, entire neck, back and spine and sequelae;
- g. Injuries to the legs and all sequelae;
- h. Injuries to and about the entire musculo-skeletal system and sequelae;
- i. Any and all other manners of internal and external injuries;
- j. Pain, suffering, discomfort, disability, and extreme physical and emotional suffering;
- k. Severe and continuing embarrassment, humiliation, anxiety, tension and mortification;
- l. Loss of the natural enjoyments of life;
- m. Aggravation of pre-existing conditions; and
- n. Loss of wages and/or earning capacity.

13. That as a direct and proximate result of Defendant's negligence and unlawful conduct, your Plaintiff has been required to undergo various and certain medical and operative procedures and will be required to undergo like treatment in the future.

WHEREFORE, Plaintiff prays that this Honorable Court award him damages against Defendants in whatever amount in excess of Seventy-Five Thousand (\$75,000.00) Dollars to which he is found to be entitled to receive, together with costs, interest and attorney fees.

Respectfully submitted:

/s/ Michael L. Battersby
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DATED: October 6, 2021

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DEMAND FOR JURY TRIAL

NOW COMES the above named Plaintiff, by and through his attorneys, THE SAM BERNSTEIN LAW FIRM, by MICHAEL L. BATTERSBY, and hereby makes his Demand for a Jury Trial upon those issues appropriate for a jury in the above-entitled cause of action.

Respectfully submitted:

/s/ Michael L. Battersby
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